उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B. HON'BLE MR. JUSTICE DHIRENDRA MISHRA

ARBITRATION APPLICATION NO. 21 OF 2007

APPLICANT	:	M/s. B.B. Verma & Company, Through Proprietor – B.B. Verma, S/o Shri Ramchandra Verma, Aged about 61 years, R/o. C-15, M.P. Housing Board Colony, Balco Township, Korba, District Korba (CG) Presently residing at HIG 2 Bajpei Castles, Behind Minocha Colony, Bilaspur (CG)
	VERSUS	
RESPONDENTS	1.	South Eastern Coalfields Limited, Through Chairman-cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, Bilaspur (CG)
	2.	Chief General Manager, South Eastern Coalfields Limited, Bishrampur, District Surguja (CG)

7.12.2007

Mr. Anand Kumar Tiwari, counsel for the applicant.

Dr. N.K. Shukla, Sr. Advocate with Ms. Ritu Mishra, counsel for the non-applicants.

The applicant by this petition under Sections 14 & 15 read with Section 11(6) of the Arbitration and Conciliation Act (for

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

brevity 'the Act') has prayed for appointment of a substituted arbitrator to commence the proceedings as Mr. B.B. Lal, the sole arbitrator appointed earlier to adjudicate the dispute is reported sick and he is not in a position to continue with the arbitration proceedings.

Brief facts of the case are that there was a contract agreement between the parties which contained an arbitration clause. There was a dispute arising out of the arbitration agreement and the applicant requested the non-applicants for appointment of arbitrator and accordingly, the non-applicants appointed Mr. B.B. Lal as sole arbitrator for adjudication of the dispute. Learned arbitrator after completion of the arbitration proceedings made an award dated 3rd February 2003. The above award was challenged by the applicant herein under Section 34 of the Act. Learned District Judge vide order dated 24.7.2006 of Annexure A/1 partly allowed the application and remitted the matter to the sole arbitrator for initiating further proceedings. However, learned sole arbitrator on account of his personal difficulties could not proceed with the arbitration proceedings. Thereafter, the applicant vide communication dated 28th August 2006 addressed to the non-applicant No. 1 requested him to direct the concerned authorities to send all the required documents to the sole arbitrator for taking further proceedings in the matter. However, when the matter did not proceed before the sole

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मामला क्रमांक.....**सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

arbitrator, the applicant again requested the non-applicant No. 1 vide application of Annexure A/3 for making substitution of the an arbitrator and to appoint another arbitrator so that the proceedings could be taken and completed at the earliest as directed by the learned District Judge. When the competent authorities under the agreement failed to supply the vacancy caused due to inability of the arbitrator for proceeding with the arbitration proceedings, the instant application for appointment of substituted arbitrator has been filed.

The only objection urged by learned counsel for the non-applicants in the reply is that the learned District Judge could not have remitted the matter to the sole arbitrator for further proceedings. Reliance is placed on the order passed by this Court in the matter of **Chief General Manager Vs R. Mukteshwar Rai and another, Arbitration Appeal No. 14 of 2006.**

Having heard learned counsel for the respective parties and having perused the pleadings and documents annexed with this petition as also the reply filed by the non-applicants, it is manifestly clear that there is an arbitration agreement between the parties. Earlier, sole arbitrator appointed by the competent authorities under the agreement proceeded with the arbitration proceedings and made an award, which was challenged by the applicant by filing application under Section 34 of the Act and the

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश ५	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

learned District Judge partly allowing the said application remitted the matter to the sole arbitrator for fresh arbitration proceedings. However, the arbitration proceedings could not be commenced because of some personal difficulties of the sole arbitrator, who was ceased of the arbitration proceedings. In these circumstances, the applicant applied to the competent authorities for supplying the vacancy caused due to inability of the sole arbitrator to commence the further arbitration proceedings, but the vacancy was not supplied within the stipulated period of one month.

So far as the argument advanced by learned counsel for the non-applicants that the District Judge was not competent to remit the matter to the sole arbitrator for fresh arbitration proceedings, is concerned, the order passed by the District Judge under Section 34 of the Act has attained finality as the non-applicants have not assailed the above order and therefore, now it is not open to the non-applicants to challenge the legality of the above order in this proceeding.

In view of above, the application is allowed and a case for appointment of substituted arbitrator is held to be made out.

However, at the time of hearing it was submitted by the parties to the proceedings that they have no objection if Hon'ble

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मामला क्रमांक ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Mr. Justice K.L. Shrivastava (Retired), High Court of M.P. is appointed as the sole arbitrator to adjudicate the disputes. I hereby, therefore, appoint Hon'ble Mr. Justice K.L. Shrivastava (Retired), High Court of M.P. as substituted arbitrator, subject to his consent. The Hon'ble arbitrator may settle his terms and conditions and remunerations. Registry to intimate Hon'ble Mr. Justice K.L. Shrivastava (Retired) about his appointment as arbitrator and to send all the papers along with addresses of the parties. Parties are also directed to approach Hon'ble Mr. Justice K.L. Shrivastava (Retired), High Court of M.P. C/o Mr. Arvind Kumar Shrivastava, District & Sessions Judge, Bilaspur (CG) and submit papers and take part in the arbitration proceedings. **Sd/-** **Dhirendra Mishra** **Judge**	